REMARKS

With the present amendment, claim 1 has been amended to include the limitations of claims 2, 3 and 5 to thereby rewrite claim 5 in independent form. Claims 2, 3 and 5 have been cancelled and claim 4 has been amended to depend from claim 1 instead of cancelled claim 3.

Claim 8 has been amended to include the limitations of claims 9 and 12 and thereby rewrite claim 12 in independent form. Claims 9 and 12 have been cancelled and claim 10 has been amended to depend from claim 8 instead of cancelled claim 9.

Claim 16 has been amended.

In the Final Office Action, claim 5 was objected to as being dependent upon a rejected base claim, but was indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. With the present amendment, claim 1 has been amended to represent claim 5 written in independent form. As such, claim 1 and claims 4, 6, and 7, which depend therefrom, are in form for allowance.

Applicant has also amended claim 8 to include the limitations of claims 9 and 12 and thereby rewrite claim 12 in independent form. The limitation of claim 12 is similar to the limitation of claim 5, which was indicated as being allowable by the Examiner. In particular, under claim 12, the step of determining a nominal time span comprises determining a maximum delay in detecting a reference mark and using the maximum delay as part of determining the nominal time span. This is similar to the limitation of claim 5 in which the length of a spin pad is based on a worst case delay in detecting a reference mark. Since the limitation of claim 5 was deemed to be patentable, claim 8 as amended is also patentable in view of the cited art. As such, claim 8 and claims 10, 11, and 13-15, which depend therefrom, are patentable over the cited art.

Claims 16-22 were rejected under 35 U.S.C. § 102(e) as

being anticipated by Murphy et al. (U.S. Patent Number 6,611,391, hereinafter Murphy).

Independent claim 16 is directed to a data storage medium capable of storing data and having a track layout comprising a first data section and a second data section. Overwrite protection means are provided in the layout for preventing the first data section from overwriting the second data section based in part on a speed of a head and a linear function of a distance from a reference mark to the overwrite protection means.

Murphy does not show that the length of its ISG or ISR fields are a linear function of a distance from a reference mark to an overwrite protection means. Although Murphy does show that the ISG fields change size, Murphy does not explicitly state that this change in size is a linear function of a distance from a reference mark to the beginning of the ISG field. As such, claim 16 and claims 17-22 are patentable over Murphy.

In light of the above remarks, claims 1, 4, 6-8, 10, 11, and 13-22 are patentable over Murphy. Reconsideration and allowance of the claims is respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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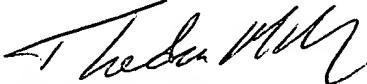
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